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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Charles Thomas Black

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(12486A)

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EXAMINER

GUERRERO, MARIA F

ART UNIT

PAPER NUMBER

2822

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,694

Applicant(s)

BLACK ET AL.

Examiner

Maria Guerrero

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-38,40-45 and 47-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-38,40-45 and 47-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the Request for continued examination filed September 22, 2003.

Claims 1-30, 39, and 46 are canceled.

Claims 31-38, 40-45, and 47-49 are pending.

Election/Restrictions

2. Claim 49 has been examined on the merits in view of Applicant's response.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 22, 2003 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 31-38, 40-42, 45, and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones Jr. et al. (U.S. 5,716,875) (cited by Applicant) in view of Horikawa et al. (U.S. 6,015,989).

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Jones Jr. et al. teaches method of forming CMOS transistor and ferroelectric capacitor on a single substrate (Abstract). Jones Jr. et al. shows forming at least one CMOS device on a semiconductor wafer and forming a ferroelectric capacitor over the CMOS device (col. 6, lines 13-15). Jones Jr. et al. teaches the ferroelectric capacitor comprising at least a ferroelectric layer, a layer in proximity to a conductive electrode. Jones Jr. et al. shows forming wiring levels (aluminum layer) on the ferroelectric capacitor (col. 7, lines 25-30) (it is inherent that the aluminum layer is formed at temperature below 450°C.). Jones Jr. et al. teaches annealing the ferroelectric capacitor at a temperature between 300 to 425°C for 30 minutes (col. 7, lines 40-49).

Furthermore, Jones Jr. et al. discloses the semiconductor substrate (10) being silicon or gallium arsenide (GaAs) (col. 3, lines 25-30), the ferroelectric layer (60) being a strontium bismuth tantalum oxide or a high-epsilon layer (col. 6, lines 23-25, col. 8, lines 44-52). Jones Jr. et al. discloses the conductive electrode and the layer being patterned, the ferroelectric capacitor being planar or non-planar (Fig. 11-14, col. 6, lines 45-60, col. 8, lines 15-25).

Jones Jr. et al. does not specifically show forming the oxygen source layer in proximity to a conductive electrode layer and releasing oxygen from the oxygen source layer into the ferroelectric capacitor. However, Horikawa et al. teaches forming a ferroelectric layer and an oxygen source layer in proximity to a conductive electrode layer (col. 6, lines 40-65, col. 7, lines 10-13). Horikawa et al. discloses releasing oxygen from the oxygen source layer into the ferroelectric capacitor (col. 8, lines 10-50). In addition, Horikawa et al. teaches the oxygen source layer being ruthenium and

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having oxygen content of 0.001 to 0.1% and being capable of partially decomposing at temperature below 700°C. (Fig. 6, 20, Abstract, col. 8, lines 60-65). Horikawa et al. shows forming a top electrode and an insulating layer followed by annealing at 650°C and the oxygen being released (col. 9, lines 45-65). Horikawa et al. teaches the ferroelectric layer being BaTiO₃. Horikawa et al. discloses that the process can be equally applied to any semiconductor device utilizing a capacitor in which high dielectric film is employed (col. 6, lines 60-62, col. 8, lines 50-55).

Since Jones Jr. et al. and Horikawa et al. are both from the same field of endeavor of forming capacitors, the purpose disclosed by Horikawa et al. would have been recognized in the pertinent art of Jones Jr. et al.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Jones Jr. et al. reference by including the oxygen source layer as taught Horikawa et al. The modification would prevent any possible deformation in shape of the capacitor, would suppress increase of the capacitor leak current, and would simplify the manufacturing step (Horikawa et al., col. 3, lines 30-40).

5. Claims 43-44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones Jr. et al. (U.S. 5,716,875) and Horikawa et al. (U.S. 6,015,989) as applied to claims 31-42, 45, and 47-49 above, and further in view of Joshi et al. (U.S. 6,322,849). Regarding claims 43-44, the combination of Jones Jr. et al. and Horikawa et al. does not specifically show the time period from about 1 minute to about 10 minutes, the annealing step being carried out in an inert gas atmosphere. However, Joshi et al.

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shows the inert gas recovery anneal being conducted from one minute or longer (Abstract, col. 2, lines 64-67, col. 3, lines 5-10, 20-22, col. 12, lines 30-32).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Jones Jr. et al. and Horikawa et al. by including the specific time claimed and the annealing step being carried out in an inert gas atmosphere as taught Joshi et al. The modification would reverse the effects of hydrogen degradation and would restore desired electronic and ferroelectric's properties (Joshi et al., col. 2, lines 64-67).

Response to Arguments

6. Applicant's arguments filed May 5, 2003 have been fully considered but they are not persuasive. Claims 31-38, 40-45, and 47-49 stand rejected.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

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Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of *Jones Jr. et al.* and *Horikawa et al.* would prevent any possible deformation in shape of the capacitor, would suppress increase of the capacitor leak current, and would simplify the manufacturing step (*Horikawa et al.*, col. 3, lines 30-40).

Furthermore, Applicant argued that *Horikawa et al.* fail to show the oxygen concentration in the range claimed. However, applicant fails to show that the particular range is critical by showing that the claimed range achieves unexpected results relative to the prior art range." In re *Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir.1990). See MPEP § 716.02 - § 716.02(g).

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Mihara et al.* (U.S. 5,466,629) teaches several steps pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Guerrero whose telephone number is 703-305-0162.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amir Zarabian can be reached on 703-308-4905. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Maria Guerrero
Patent Examiner
October 16, 2003